

Memorandum



Date: January 20, 2005

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

Agenda Item No. 7(J)(1)(H)

From: George M. Burgess
County Manager

Subject: Retroactive Change Order No. 1 - Miscellaneous Improvements No. 2,
Contract No. TA00-MF11 with Cuesta Construction Corporation

The attached retroactive Change Order No. One to the contract between Cuesta Construction Corporation and Miami-Dade County has been prepared by Miami-Dade Transit (MDT) and is recommended for approval.

CHANGE ORDER NO.: One

PROJECT NO.: TA00-MF11

PROJECT LOCATION: Various MDT Facilities: Metrobus Central Transportation Building; Central Administration Building; Major Overhaul Garage; Northeast Facility Maintenance Building; and the William Lehman Center Parts Storeroom.

PROJECT DESCRIPTION: This project consists of the renovation, remodeling, and/or additions to 5 MDT facilities.

PRIME CONTRACTOR: Cuesta Construction Corporation

COMPANY PRINCIPAL (S): Michael Cuesta – President
William Cuesta – Vice-President

COMPANY QUALIFIER: Michael Cuesta

LOCATION OF COMPANY: Miami, Florida

YEARS IN BUSINESS: Fifteen (15)

SUBCONTRACTORS: Pilar Services
Om Electrical
Plumbing Contractors Inc.

DBE GOAL: 23%

GOAL ACHIEVED AT AWARD: 23%

ORIGINAL ESTIMATE: \$839,000.00

CONTRACT AMOUNT: \$499,591.87 (See attached bid tabulation)

PREVIOUS CHANGE ORDERS: N/A

CHANGE ORDER
RECOMMENDATION: An increase of \$106,250.15 in cost and a
compensable time extension of 303 calendar
days.

CLASSIFICATION OF
CHANGE ORDER:

- ☒ Regulatory Change
- ☐ Other Agency Request Change
- ☐ Design Error Change
- ☐ Design Omission Change
- ☒ County Requested Change
- ☐ Unforeseen/Unforeseeable Change
- Other _____

ADJUSTED CONTRACT AMOUNT: \$605,842.02

PERCENTAGE OF INCREASE
OR DECREASE PREVIOUS
CHANGE ORDERS: N/A

PERCENTAGE OF INCREASE
OR DECREASE THIS CHANGE ORDER: 21.3% increase in the contract cost
85% increase in the contract duration

ORIGINAL CONTRACT COMPLETION
DATE: February 13, 2004

REVISED CONTRACT COMPLETION
DATE: December 12, 2004

JUSTIFICATION FOR
CHANGE ORDER: This change order is necessary due to
regulatory and County requested changes that
required the contractor to revise the original
contract drawings to include necessary
Americans with Disabilities Act (ADA)
requirements per the 2001 Florida Building
Code (FBC), additional work required by the
County Building Department as per the 2001
FBC, to delete plumbing work and to delete the
provision of an owner's field office.

The regulatory change work amounted to an increase of \$163,655.15 that included a sum of \$84,889.15 for additional work required by the ADA and the County Building Department and \$78,766.00 for the compensable time extension of 303 calendar days. MDT staff determined that the contractor was due an extension of 303 calendar days based on all of the extra work requested and to comply with the ADA requirements that necessitated the revision of the original contract drawings as specified. The original contract drawings were done prior to the adoption of the 2001 FBC.

The County requested changes (deletions of the plumbing work and the owner's field office) amounted to a reduction of (\$57,405.00).

The negotiations for this Change Order were completed on June 18, 2004. A draft preliminary copy of the Change Order was prepared on July 13, 2004, and routed to the MDT Project Control and Design & Engineering divisions and the MDT Assistant Director for their review and comments. Based on the comments received and after several revisions, the completed draft copy was sent to the County Attorney's Office for their preliminary legal review on September 9, 2004. On September 14, 2004, the originals of the Change Order were sent to the contractor for signature and execution. These originals were received from the contractor on October 1, 2004, and the required County signatures (MDT Chief, Transit Construction; MDT Finance; MDT Assistant Director and Director; Office of Strategic Business Management (OSBM)) were finally obtained on October 25, 2004.

ALLOWANCE ACCOUNT STATUS:

Original Amount	\$81,619.00
Expended to date	<u>\$65,722.91</u>
Remaining Balance	<u>\$15,896.09</u>

USING AGENCY:

Miami-Dade Transit

MANAGING AGENCY:

Miami-Dade Transit

FUNDING SOURCE:

Federal Transit Administration (FTA)
100% - \$605,842.02

APPROVED FOR LEGAL
SUFFICIENCY:



Bruce Libhaber
Assistant County Attorney

11/12/04

Date



Assistant County Manager

Date



MEMORANDUM

(Revised)

TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: January 20, 2005

FROM: Robert A. Ginsburg
County Attorney

SUBJECT: Agenda Item No. 7(J)(1)(H)

Please note any items checked.

- ☐ "4-Day Rule" ("3-Day Rule" for committees) applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Bid waiver requiring County Manager's written recommendation
- ☐ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ Housekeeping item (no policy decision required)
- ☐ No committee review

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Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(J)(1)(H)
01-20-05

RESOLUTION NO. _____

RESOLUTION AUTHORIZING EXECUTION OF
RETROACTIVE CHANGE ORDER NO. 1 TO CONTRACT
TA00-MF11 BETWEEN MIAMI-DADE COUNTY AND
CUESTA CONSTRUCTION CORPORATION FOR AN
INCREASE OF \$106,250.15 AND A TIME EXTENSION OF 303
CALENDAR DAYS

WHEREAS, this Board desires to accomplish the purpose outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves Retroactive Change Order No. 1 to Contract TA00-MF11 between Miami-Dade County and Cuesta Construction Corporation for an increase of \$106,250.15 and a time extension of 303 calendar days in substantially the form attached hereto and made a part hereof; and authorizes the County Manager to execute same for and on behalf of Miami-Dade County.

The foregoing resolution was offered by Commissioner _____, who moved its adoption. The motion was seconded by Commissioner _____, and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman
Dennis C. Moss, Vice-Chairman

Bruno A. Barreiro
Jose "Pepe" Diaz
Sally A. Heyman
Dorrin D. Rolle
Katy Sorenson
Sen. Javier D. Souto

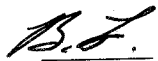
Dr. Barbara Carey-Shuler
Carlos A. Gimenez
Barbara J. Jordan
Natacha Seijas
Rebeca Sosa

The Chairperson thereupon declared the resolution duly passed and adopted this 20th day of January, 2005. This Resolution and contract, if not vetoed, shall become effective in accordance with Resolution No. R-377-04.

MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as
to form and legal sufficiency.



By: _____
Deputy Clerk

Bruce Libhaber

CHANGE ORDER NO. 1PROJECT NO. TA00-MF11DATE September 14, 2004PROJECT TITLE: Miscellaneous Improvements No. 2TO CONTRACTOR: Cuesta Construction Corp.
9745 Sunset Drive, Suite 211
Miami, FL 33173

YOU ARE HEREBY REQUESTED TO MAKE THE FOLLOWING CHANGES IN THE PLANS AND SPECIFICATIONS FOR THIS PROJECT AND TO PERFORM THE WORK ACCORDINGLY, SUBJECT TO ALL CONTRACT STIPULATIONS AND COVENANTS.

Perform change work as specified in Change Notice # 8; #12 and #14.

SUMMARY OF CONTRACT AMOUNT

ORIGINAL CONTRACT AMOUNT	<u>\$499,591.87</u>
COST OF CONSTRUCTION CHANGES PREVIOUSLY ORDERED	<u>— 0 —</u>
ADJUSTED CONTRACT AMOUNT PRIOR TO THIS CHANGE ORDER	<u>\$499,591.87</u>
COST OF CONSTRUCTION CHANGES THIS ORDER	<u>\$106,250.15</u>
ADJUSTED CONTRACT AMOUNT INCLUDING THIS CHANGE ORDER	<u>\$605,842.02</u>
PERCENT INCREASE IN COST THIS CHANGE ORDER	<u>21.3%</u>
TOTAL PERCENT INCREASE IN COST TO DATE	<u>21.3%</u>
PERCENT INCREASE IN TIME THIS CHANGE ORDER	<u>85%</u>
TOTAL PERCENT INCREASE IN TIME TO DATE	<u>85%</u>

EXTENSION OF CONTRACT TIME ALLOWED BY THIS CHANGE 303 CALENDAR DAYS TO December 12, 2004

CERTIFYING STATEMENT: I hereby certify that the supporting cost data included is, in my considered opinion, accurate; that the prices quoted are fair and reasonable and in proper ratio to the cost of the original work contracted for under benefit competitive bidding.

Date

SIGNATURE RESIDENT ENGINEER

TO BE FILLED OUT BY DEPARTMENT INITIATING CHANGE ORDER

Miami-Dade Transit

DEPARTMENT

MT0300004PTT

FUNDS BUDGETED CODE

MDT Finance CERTIFIED BY

ACCEPTED BY:

Cuesta Construction Corp.

APPROVED

BUDGET DIRECTOR

(COMPANY SEAL)

(SURETY SEAL)

Great American Insurance Company

DADE COUNTY, Florida

By its BOARD OF COUNTY COMMISSIONERS

RECOMMENDED:

CHIEF, TRANSIT CONSTRUCTION

By:

County Manager

APPROVED:

ASST. DIRECTOR, PLANNING & DEVELOPMENT

ATTEST:

By:

Deputy Clerk

APPROVED:

DEPARTMENTAL DIRECTOR

Prepare in Sets (6 copies). County Manager will forward all copies to Clerk of the Board. Clerk of the Board will make final distribution.

105.01-14

ALL COPIES MUST BE SIGNED

Change Order #1.doc

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CHANGE ORDER TO ORIGINAL CONTRACT

Page 2

PROJECT TITLE: Miscellaneous Improvements No. 2

SUPPLEMENT

CONTRACT NO. TA00-MF11CONTRACTOR: Cuesta Construction Corp.CHANGE ORDER NO. 1**Change Notice # 8 – Delete the specified plumbing work @ the Metrobus Central Administration Bldg.****BACKGROUND**

When the contractor presented the permit drawings to the MDC Building Department to apply for the required permits, the review officials informed him that the process numbers had expired and, in accordance with the new 2001 Florida Building Code (FBC), no extensions of process numbers were being given and that the permit drawings would have to be re-submitted for a new complete review. In addition, the permit drawings must now be routed through the MDC Office of Americans with Disabilities Act (ADA) prior to being reviewed by the MDC Building Department's Accessibility reviewer. After meeting with the ADA staff, the design consultant had to revise the plans to include the addition of an accessible counter in the dispatch area, handicapped accessible parking and route near the building, upgrading handicapped accessibility to the existing elevators, and handicapped accessible toilets on the 2nd floor. In his letter dated September 23, 2003, the design consultant estimated that this extra work would cost approximately \$89,000 representing an increase of 18% to the contract price. In anticipation of this extra work and in order to preclude further delays to the contract completion and to remain within the budgetary constraints, MDT staff issued Change Notice #8 to the contractor that deleted all plumbing work at the above mentioned location on November 26, 2003. This plumbing work is not considered critical and can be added later to the follow-on contracts. The affected drawings were A1-2.4; A200.01; A200.02; A200.03; P1-2.1; P1-2.2; P1-2.3 and P1-2.5.

SUMMARY OF NEGOTIATIONS

In his letter dated January 12, 2004, the contractor submitted a credit proposal of (\$28,428.75) for the deletion of the above described item. The Resident Engineer (R.E.) reviewed this estimate and rejected it as being too low and requested that the contractor recheck his figures and resubmit. In his letter dated February 13, 2004, the contractor presented a revised reduction proposal of (\$41,630.40) for the above item. The R.E. rejected this revised offer and pointed out that, according to the contractor's schedule of values, the sum of \$47,500.00 was assigned to this item of work. After further discussion, both parties agreed to the total reduction of (\$47,500.00) to the contract amount for this item. MDT Scheduling staff reviewed the schedule and determined that this plumbing work to be deleted was not on the critical path and, as such, no credit for contract time was required.

Change Notice # 12 – Compensate the contractor for additional work requested by revised drawings and provide a time extension of 303 calendar days**BACKGROUND**

Part II Notice-to-Proceed (NTP) for this contract was issued to the contractor on February 18, 2003, and a contract duration of 360 calendar days resulted in a contract completion date of February 13, 2004.

CHANGE ORDER TO ORIGINAL CONTRACT

Page 3PROJECT TITLE: Miscellaneous Improvements No. 2

SUPPLEMENT

CONTRACT NO. TA00-MF11CONTRACTOR: Cuesta Construction Corp.CHANGE ORDER NO. 1

The original contract drawings, dated December 17, 2001, and issued for bidding, had been presented to the MDC Building Department for their preliminary review by the design consultant. As explained in the "background" paragraph of Change Notice #8 described above, the contractor had to re-submit the permit drawings for a complete new review. Also, the reviewers required that separate permits be obtained for the three (3) different locations, Metrobus Central Administration Building, Metrobus Transportation Building and the William Lehman Center (WLC) storage facility. As a result of various MDC Building Department reviews, additional revisions had to be incorporated into the drawings and included the provision of temporary plywood partitions, new plumbing chases, wall tile finishes, pipe railings, pavement markings, interior partitions, plumbing, electrical and HVAC changes. The R.E. issued revised sets of conformed drawings to the contractor on September 23, 2003. The building permits were finally obtained on August 4, 2003.

As a result of the above described work, the contractor requested a time extension of 303 calendar days.

SUMMARY OF NEGOTIATIONS

In his letter dated February 16, 2004, the contractor requested an increase of \$85,101.37 to perform the above described additional change work. The R.E. and design consultant staff reviewed all the back-up information provided by the contractor and verified the data by considering current pricing. With regards to the contractor's estimate, the R.E. pointed out that MDC was no longer enforcing the IPSIG allowance account so this calculation was unnecessary. After further discussion, both parties agreed that the reduced sum of \$84,889.15 was acceptable.

In his letter dated February 16, 2004 the contractor submitted a request for a compensable time extension of 303 calendar days that amounted to \$89,050.34 (303 x \$290.26/day plus 1% bond and ¼% IPSIG). MDT Scheduling staff reviewed the contractor's request for a time extension of 303 calendar days and verified that the contractor's claim was valid. The R.E. checked the contractor's requested rate of \$290.26/day for his daily overhead rate and objected to the number of hours requested for the contractor's project engineer. The R.E. suggested that the contractor review this proposal and revise the hours. In his letter dated April 21, 2004, the contractor revised his project engineer's hours that resulted in a reduced daily rate of \$257.38/day that was accepted by both parties. Thus, the total for this portion of the change notice amounted to \$78,766.00 (303 x \$257.38/day plus 1% bond). The R.E. pointed out that no IPSIG needed to be added as MDC is no longer enforcing this allowance account.

This resulted in a total sum of \$163,655.15 (\$84,889.15 + \$78,766.00) for this change notice.

CHANGE ORDER TO ORIGINAL CONTRACT

Page 4PROJECT TITLE: Miscellaneous Improvements No. 2

SUPPLEMENT

CONTRACT NO. TA00-MF11CONTRACTOR: Cuesta Construction Corp.CHANGE ORDER NO. 1**Change Notice # 14 – Reduce the contract amount for the deletion of the owner's field office****BACKGROUND**

Paragraph 1.03.B of Section 01590, Field Offices, Temporary Trailer facilities and sheds, of the contract Technical Specifications detailed the requirements for the provision of the owner's field office. After careful review, the R.E. instructed the contractor not to provide this field office. As a result, MDT is due an appropriate reduction to the contract amount for the deletion of this item.

SUMMARY OF NEGOTIATIONS

In his letter dated June 18, 2004, the contractor submitted a deduction proposal of (\$8,405.00) for the deletion of the above item. The R.E. checked this estimate and pointed out that the time period used to calculate this reduction should be 12 months and not 7 months and that there was no reduction for the monthly maintenance costs of the trailer. After making the necessary revisions, both parties agreed to the revised reduction of (\$9,905.00) to the contract amount.

Measurement and payment shall be as follows:

Revise Page 5 of 12 of the original Bid Form and Page 5 of 12 of the original Contract Conditions as follows:

- a). Delete "360" and insert "663" calendar days.

GREAT AMERICAN INSURANCE COMPANY**Administrative Office: 580 WALNUT STREET • CINCINNATI, OHIO 45202 • 513-369-5000 • FAX 513-723-2740**The number of persons authorized by
this power of attorney is not more than **FIVE**No. **0 17715****POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the GREAT AMERICAN INSURANCE COMPANY, a corporation organized and existing under and by virtue of the laws of the State of Ohio, does hereby nominate, constitute and appoint the person or persons named below its true and lawful attorney-in-fact, for it and in its name, place and stead to execute in behalf of the said Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; for all obligees including any and all consents required by the Department of Transportation, State of Florida, incident to the release of retained percentages and/or final estimates; provided that the liability of the said Company on any such bond, undertaking or contract of suretyship executed under this authority shall not exceed the limit stated below.

	Name	Address	Limit of Power
CHARLES J. NIELSON	MARV C. ACEVES	ALL OF	ALL
CHARLES D. NIELSON		MIAMI LAKES, FLORIDA	UNLIMITED
WARREN ALTER			
GLORIA MCCLURE			

This Power of Attorney revokes all previous powers issued in behalf of the attorney(s)-in-fact named above.

IN WITNESS WHEREOF the GREAT AMERICAN INSURANCE COMPANY has caused these presents to be signed and attested by its appropriate officers and its corporate seal hereunto affixed this **26TH** day of **JULY**, **2004**
Attest **GREAT AMERICAN INSURANCE COMPANY**


DAVID C. KITCHIN (513-412-4602)

STATE OF OHIO, COUNTY OF HAMILTON - ss:

On this **26TH** day of **JULY**, **2004**, before me personally appeared **DAVID C. KITCHIN**, to me known, being duly sworn, deposes and says that he resides in Cincinnati, Ohio, that he is the Divisional Senior Vice President of the Bond Division of Great American Insurance Company, the Company described in and which executed the above instrument; that he knows the seal of the said Company; that the seal affixed to the said instrument is such corporate seal; that it was so affixed by authority of his office under the By-Laws of said Company, and that he signed his name thereto by like authority.



KAREN L. BERRY
NOTARY PUBLIC, STATE OF OHIO
My Commission Expires 02-16-09

This Power of Attorney is granted by authority of the following resolutions adopted by the Board of Directors of Great American Insurance Company by unanimous written consent dated March 1, 1993.

RESOLVED: That the Division President, the several Division Vice Presidents and Assistant Vice Presidents, or any one of them, be and hereby is authorized, from time to time, to appoint one or more Attorneys-in-Fact to execute on behalf of the Company, as surety, any and all bonds, undertakings and contracts of suretyship, or other written obligations in the nature thereof; to prescribe their respective duties and the respective limits of their authority; and to revoke any such appointment at any time.

RESOLVED FURTHER: That the Company seal and the signature of any of the aforesaid officers and any Secretary or Assistant Secretary of the Company may be affixed by facsimile to any power of attorney or certificate of either given for the execution of any bond, undertaking, contract or suretyship, or other written obligation in the nature thereof, such signature and seal when so used being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

CERTIFICATION

I, **RONALD C. HAYES**, Assistant Secretary of Great American Insurance Company, do hereby certify that the foregoing Power of Attorney and the Resolutions of the Board of Directors of March 1, 1993 have not been revoked and are now in full force and effect.

Signed and sealed this **21st** day of **September**, **2004**